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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

DONALD BOULTER,) Cause No. _____
)
Plaintiff,)
)
vs.)
) NOTICE OF REMOVAL
THE HARTFORD FIRE INSURANCE)
COMPANY, and JOHN DOES I-V,)
)
Defendants.)

COMES NOW Defendant The Hartford Fire Insurance Company
("Hartford"), by and through its counsel of record, and notifies the Court of the
removal of *Donald Boulter v. The Hartford Fire Insurance Company*, Cause No.
DV-17-0385 from the Montana Thirteenth Judicial District Court, Yellowstone
County, to the United States District Court for the District of Montana, Billings
Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 and states as follows:

1. This action has been removed to federal court based upon the following federal jurisdictional basis: diversity of citizenship under 28 U.S.C. § 1332.

2. On March 17, 2017, Plaintiff Donald Boulter filed an action in the Montana Thirteenth Judicial District Court, Yellowstone County, bearing Cause Number DV-17-0385 (the “state action”) in the records and files of that Court. A true and correct copy of the Complaint is attached as Exhibit A.

3. In the Complaint, Mr. Boulter contends that he suffered serious injuries as a result of the negligence of an uninsured motorist. Compl., ¶ 1. Mr. Boulter contends that he is entitled to uninsured motorist benefits under an insurance policy issued by Hartford.

4. Pursuant to 28 U.S.C. §1332(a)(1), the United States District Court for the District of Montana has jurisdiction for the removal of this state action as the lawsuit is comprised entirely of a civil nature and is an action between citizens of different states and the matter in controversy exceeds the sum or value of seventy-five thousand dollars (\$75,000), exclusive of interest and costs.

5. There is complete diversity between Plaintiff and Defendant.

A. Plaintiff is and was at the time the Complaint was filed a citizen of California for diversity purposes. Compl., ¶ 5.

B. Defendant is and was at the time the Complaint was filed an insurance company organized and incorporated in Connecticut. Compl., ¶ 6. Defendant's principal place of business is in Connecticut. Defendant is, therefore, a citizen of Connecticut for diversity purposes.

C. Upon information and belief, none of the John Doe Defendants has been substituted with named defendants or have been served with process in the state court action. For purposes of removal, "the citizenship of defendants sued under fictitious names shall be disregarded." 28 U.S.C. § 1441(b); *accord Soliman v. Philip Morris, Inc.*, 311 F.3d 966, 971 (9th Cir. 2002); *McCabe v. Gen. Foods Corp.*, 811 F.2d 1336, 1339 (9th Cir. 1987). Therefore, the citizenship of John Doe Defendants should be disregarded for purposes of diversity.

6. Hartford has a good faith belief that Plaintiff is seeking uninsured motorist benefits in excess of the jurisdictional amount of this Court notwithstanding that the prayer of the Complaint does not specify the dollar amount of Plaintiff's damages. Among other things, Plaintiff alleges in his Complaint that he suffered "serious injuries" including "a serious head injury." Compl., ¶¶ 1-2. Therefore, Plaintiff's allegations in the Complaint demonstrate that the amount in controversy requirement is satisfied.

7. The basis of the state action is declaratory judgment that Plaintiff is entitled to uninsured motorist benefits under a Hartford policy of insurance.

Accordingly, this Court has original subject matter jurisdiction over this matter based on diversity of citizenship and would have had original subject matter jurisdiction of the state action under 28 U.S.C. §1332.

8. No previous application has been made for the relief requested herein.

9. The state action was served on Hartford by the Commissioner of Securities and Insurance on April 25, 2017. Therefore, this Notice of Removal is being filed within the 30 day period for removal provided by 28 U.S.C. § 1446(b).

10. Copies of the documents filed in the state action are being forwarded to this Court by the Clerk's Office of the Montana Thirteenth Judicial District Court, Yellowstone County.

11. Pursuant to 28 U.S.C. § 1446(d), Hartford has given written notice of the filing of this Notice of Removal to all parties in this action and will promptly file a copy of the notice with the Clerk of Court for the Montana Thirteenth Judicial District Court, Yellowstone County.

WHEREFORE, Defendant Hartford respectfully requests that this case continue to proceed before this Court as an action properly removed.

Dated this 23rd day of May, 2017.

CROWLEY FLECK PLLP

By /s/ Christopher C. Voigt
Christopher C. Voigt
P. O. Box 2529
Billings, MT 59103-2529
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon the following counsel of record, by the means designated below, this 23rd day of May, 2017:

<input checked="" type="checkbox"/> U.S. Mail	Daniel P. Buckley
<input type="checkbox"/> FedEx	Buckley Law Office, P.C.
<input type="checkbox"/> Hand-Delivery	125 West Mendendall, Suite 201
<input type="checkbox"/> Facsimile	Bozeman, MT 59715
<input type="checkbox"/> Email	dbuckley@danbuckleylaw.com
<input checked="" type="checkbox"/> ECF Electronic filing	

<input checked="" type="checkbox"/> U.S. Mail	Timothy P. Hammar
<input type="checkbox"/> FedEx	Angel, Coil & Bartlett
<input type="checkbox"/> Hand-Delivery	125 West Mendendall, Suite 201
<input type="checkbox"/> Facsimile	Bozeman, MT 59715
<input type="checkbox"/> Email	timothy@angelcoilbartlett.com
<input checked="" type="checkbox"/> ECF Electronic filing	

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